

## **REMARKS**

This paper responds to the Final Office Action dated June 5, 2009. Claims 1-31 are pending. Claims 1-12 and 16-20 have been withdrawn. Claims 13-15 and 21-31 are rejected. Claims 1 and 28 have been amended to address formalities regarding a rejection under 35 U.S.C. § 101. Applicants respectfully request reconsideration on that basis, and on the basis of the arguments made below for the pending rejections under 35 U.S.C. § 103.

### **Claim Rejections – 35 USC § 101**

The Office Action rejects claims 1 and 28 (and presumably certain dependent claims) under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants have amended claims 1 (which is withdrawn) and 28 as suggested by the Examiner, and request withdrawal of the rejection.

### **Claim Rejections – 35 USC § 103**

Claims 13-15, 21, and 23-31 were rejected under 35 U.S.C. § 103 as allegedly obvious over U.S. Publication 2006/0149653 to Davis in view of U.S. Pub 2003/0191672 to Kendal.

Regarding independent claim 13, the Final Office Action admits that none of the applied art discloses or suggests “complex pricing structure is selected by the potential bidders from among a group of multiple pricing structures made available to the potential bidders” or “bids with multiple different pricing amounts, and each bidder provides multiple different proposals with each proposal including a set of terms governing the proposal and a set of prices for the proposal,” as recited in claim 13. The Office relies on official notice that contracts for varying prices over time would be a “set of prices.” But that rationale form the Office ignores that that the first feature from claim 13 quoted above recites proposals that include a set of terms governing the proposal and also a set of prices. Mere variability in prices does not meet such a feature, and does not include the benefits that can be provided by such a feature. For example, by letting bidders specify various different sets of terms in addition to various different sets of

prices, the claimed features permit true complex pricing structures to be proposed by bidders, so that, in proper circumstances, one bidder could specify a contract that is very different than that proposed by a different bidder. For example, one bidder could specify a different contract length, geographic-specific terms that are particularly favorable to that bidder, particular bonus features that might be provided, and other such terms. These varying sets of terms – which are recited distinctly from the sets of prices in the claims, go beyond what the Office has officially noticed, and are thus not even in the “art” on which the Office relies. In short, the Office has erroneously read this additional feature out of the claims, and Applicants respectfully request reconsideration on that basis.

Referring now more specifically to the two features from pending claim 13 that are quoted above, the first feature -- i.e., that the complex pricing structure received at the computer system is selected from “a group of multiple pricing structures made available to the potential bidders” – the Office Action points to para. 0026 of Davis, where prices from different locations are allegedly provided to the buyer, but importantly, not to the bidders as recited in claim 13. As a result, the Davis reference does not provide advantages that are made possible by the features of claim 13, such as the ability of a buyer to provide different structural options to bidders, and to get a bid for the structural option that best matches the business of each of the bidders. For example, one bidder may prefer a particular shipment option, and may be able to provide a “top” bid under that option, while another bidder may prefer a particular feature set on a product and may provide a “top” bid under that option. The buyer is thus not limited simply to comparing prices submitted by bidders, but can have a richer set of options, while still maintaining control over the bidding process.

Finally, the Office Action asserts that Kendall discloses multiple proposals for a single bid at para. 0083, so that it would have been obvious to put “multiple different proposals with each proposal.” There are several problems with this reasoning. First, Davis appears to let a bidder specify nothing more than one price for one product, and thus fails for the reasons discussed above. Second, Davis refers to insurance carriers that make multiple *sequential* bids “in an iterative process.” See Kendall para. 0083. Such a sequential approach is wholly different than a process by which each bidder is able to select an option from multiple options presented to

the bidder, so that the bidder may select the option that is best for that bidder. Under a sequential process, for example, a bidder might never get to a second proposal if its first proposal is rejected. In contrast, where the bidder can provide multiple different proposals to a buyer, the bidder can try out a number of different options and need not guess what the buyer wants – for example, the bidder could make a high-quality and high cost proposal, but also a medium quality and medium cost proposal. Third, it does not appear that Kendall ever provides multiple options to the bidders, as recited in claim 13, and so the buyer does not have control to identify the options that the buyer prefers. For each of these reasons, Applicants respectfully request reconsideration of the rejection of claims 13 and 28.

The dependent claims are patentable for additional reasons. First, the Final Office Action only briefly addresses dependent claims 23 and 30, and appears to rely only on para. 0156 of Davis for the features added by these claims. But as Applicants pointed out in a prior submission, and the Final Office Action does not address, para. 0156 merely states generally that a buyer can allow a supplier “to view certain aspects of any other proposal.” Davis says nothing about what those aspects would be, and certainly does no disclose any feature like providing different bid terms from one bidder, but not bid prices, to other bidders and seeking prices for those terms from the other bidders. Thus, this general mention in Davis does not disclose or suggest the features recited in claims 23 and 30, and Applicants respectfully request reconsideration of the rejection of these claims for that independent reason.

Claim 24 recites that the different terms and bid prices correspond to geographic location-specific information. The Office Action appears to reason that this feature can be met by the mere fact that bidders, in the applied references, might be located in different places. However, that surmise neither discloses nor suggests what is actually recited in the claim – i.e., that the terms and prices themselves must correspond to location-specific information. In the applied references, there is no correspondence drawn between the bid terms and prices on the one hand, and any location on the other. Rather, the references are silent regarding terms and prices, and what those terms and prices might correspond to.

Claim 27 recites the feature of normalizing prices of aggregated bids to permit comparison among differing bids. The Final Office Action points summarily to FIG. 21 of Davis

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Serial No. : 10/695,621  
Filed : October 28, 2003  
Page : 10 of 10

Attorney's Docket No.: 13914-0016001 / 2003P00626 US

for such a feature. *See* Final Office Action, at 8. However, FIG. 21 simply shows each bidder's data individually, and no adjustments have been made to the data so as to normalize the data of one bidder to make it more comparable to that of another bidder..

For at least these reasons, Applicants respectfully request reconsideration of the rejection of the claims that depend on claims 13 and 28.

Applicants submit that claims 13-15 and 21-31 are in condition for allowance, and requests that the Examiner issue a notice of allowance.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

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